

EXHIBIT E

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 18-CR-681 (NGG)
:
-against- : United States Courthouse
: Brooklyn, New York
:
ANDREW PEARSE, : Thursday, March 6, 2025
: 10:30 a.m.
Defendant. :
:
- - - - - X

TRANSCRIPT OF CRIMINAL CAUSE FOR SENTENCING
BEFORE THE HONORABLE NICHOLAS G. GARAUFIS
UNITED STATES SENIOR DISTRICT COURT JUDGE

A P P E A R A N C E S:

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Proceedings recorded by mechanical stenography, transcript
produced by Computer-Aided Transcription.

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1 THE COURT: Good morning.

2 MR. SIEGEL: Good morning, your Honor. Jonathan
3 Siegel, Morgan Cohen for the United States, and joined at
4 counsel table by Special Agents Babatunde Adediran and Taylor
5 LaGrange.

6 THE COURT: Good morning. Everyone may be seated.

7 This is a sentencing for Andrew Pearse.

8 Mr. Pearse, are you satisfied with the assistance
9 your attorney has given you thus far in this matter?

10 THE DEFENDANT: Yes, your Honor, I am.

11 THE COURT: Well, she has provided an excellent
12 submission in connection with sentencing, and I thank her for
13 that.

14 MS. CAHILL: Thank you, your Honor.

15 THE COURT: Now, I didn't take your guilty plea.

16 That was Judge Kuntz who took your guilty plea?

17 THE DEFENDANT: Correct, your Honor.

18 THE COURT: And the case was transferred to me after
19 the Boustani trial.

20 MS. CAHILL: Correct.

21 THE COURT: But Mr. Pearse did testify at the Chang
22 trial in front of me, so I'm very familiar with his testimony.
23 I just point that out at the very beginning.

24 I'd like to just go over the materials that I have
25 reviewed for sentencing.

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1 Have you received the preliminary order of
2 forfeiture?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Which I only received yesterday, so I
5 wanted to make sure everybody had it.

6 I've signed it.

7 MR. SIEGEL: Thank you, your Honor.

8 THE COURT: It will be attached to the judgment.
9 So, that's taken care of.

10 There's a presentence investigation report that is
11 dated February 11, 2025.

12 Has the Government seen the report?

13 MR. SIEGEL: Yes, your Honor.

14 THE COURT: And the defense?

15 MS. CAHILL: We have, your Honor.

16 THE COURT: You've reviewed the report with your
17 client?

18 MS. CAHILL: Yes, we have.

19 THE COURT: And answered all his questions?

20 MS. CAHILL: Yes.

21 THE COURT: There is an addendum to the presentence
22 report reviewing objections by the Government -- there were no
23 objections by the Government.

24 MR. SIEGEL: That's correct, your Honor.

25 THE COURT: And the defense objections in the

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1 defense letter of February 20, 2025.

2 MS. CAHILL: That's correct, your Honor.

3 THE COURT: You've received that document covering
4 your objections?

5 MS. CAHILL: Are you referring to the addendum?

6 THE COURT: Yes, the addendum.

7 MS. CAHILL: Yes, we've seen that.

8 THE COURT: And you reviewed that with your client?

9 MS. CAHILL: Yes, we have.

10 THE COURT: Is there anything that you want to bring
11 to my attention after reviewing the probation department's
12 addendum?

13 MS. CAHILL: No, your Honor, nothing beyond what
14 we've already written.

15 THE COURT: Is there anything for me to decide?

16 MS. CAHILL: Not in our view, your Honor.

17 THE COURT: So, I'll simply accept the probation
18 department presentence report and addendum as has been
19 received. And thank you very much.

20 I have an extensive submission from the defense
21 dated February 12, 2025, including Exhibits A through K.

22 MS. CAHILL: Correct.

23 I'm sorry, your Honor. Actually, it's Exhibits A
24 through N.

25 THE COURT: Oh, the additional exhibits.

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1 MS. CAHILL: Yes.

2 THE COURT: Right. All those exhibits, I've
3 reviewed all of the exhibits.

4 And I'm particularly interested in discussing
5 Exhibit K today, which is the exhibit which deals with the
6 Defendant's right to return to his home in England. So, we'll
7 talk about that later.

8 I have the Government's submission in aid of
9 sentencing dated February 18, 2025, which includes an
10 application under Guideline Section 5K1.1 and
11 18 U.S.C. 3553(e), which would permit the Court to sentence
12 the Defendant below any statutory minimum, which there isn't,
13 and below the guideline.

14 Have you seen that?

15 MS. CAHILL: Yes, we have, your Honor.

16 THE COURT: And shared it with your client?

17 MS. CAHILL: Yes.

18 THE COURT: And then, of course, I already mentioned
19 the defense letter of February 20, which -- of the probation
20 officer regarding corrections and objections. So, you've seen
21 that.

22 MR. SIEGEL: Yes, your Honor. Thank you.

23 THE COURT: All right. I think that's it.

24 Is there anything more? Am I missing anything?

25 MS. CAHILL: No, your Honor.

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1 MR. SIEGEL: That's everything from the Government's
2 perspective.

3 THE COURT: Okay. The next step is to determine the
4 appropriate sentencing guideline. And I note that in the
5 Defendant's cooperation agreement he agreed not to appeal or
6 otherwise challenge the sentence I impose upon him if it is
7 240 months or less. And 240 months is the statutory maximum.

8 Mr. Siegel, is that correct?

9 MR. SIEGEL: Yes, your Honor.

10 THE COURT: The Defendant pleaded guilty on July 19,
11 2019, to the cooperation agreement, pleading to Count One of
12 the indictment in 18-CR-681, conspiracy to defraud. It
13 carries a sentence of zero to 20 years in the custody of the
14 Attorney General.

15 Counts Two, Three, and Four remain open.

16 MR. SIEGEL: Correct, your Honor.

17 THE COURT: According to the probation department,
18 the Defendant's total offense level is a 32, he's in criminal
19 history category I with no prior convictions for a felony, and
20 the sentencing range under the guidelines is 121 months to 151
21 months in the custody of the Attorney General.

22 Do you agree with that?

23 MR. SIEGEL: Yes, your Honor.

24 THE COURT: Does the defense agree as well to the
25 guideline?

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1 MS. CAHILL: Yes, we do, your Honor.

2 THE COURT: And the Court agrees as well, so we can
3 move on from there.

4 The next step is to hear from the parties regarding
5 the Government's motion and the factors that the Court needs
6 to consider before sentencing the Defendant under 18 U.S. Code
7 Section 3553(a).

8 MR. SIEGEL: Thank you, your Honor.

9 Starting on the motion and just to talk about the
10 value of Mr. Pearse's cooperation, as we lay out in our
11 letter, I don't think that value can be overstated.

12 He testified at two separate trials, which is
13 obviously unusual. But it wasn't just his testimony that was
14 really incredibly valuable, it was the documents he provided.
15 All of his Palomar e-mails. Some of the key documents your
16 Honor saw at the Chang trial are documents he and his counsel
17 provided that were obtained -- they were internal Privinvest
18 documents that we were not able to get through U.S. process.
19 They were entered in the UK litigation. Mr. Pearse and his
20 counsel advised us of those and we were able to get it through
21 lawyers in the UK. And those were really some of the key
22 documents at the Chang trial that your Honor oversaw.

23 There was his cooperation against Credit Suisse and
24 the information that he provided as to Credit Suisse leading
25 to a guilty plea and huge amount of fines and real impact on

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1 banks and the controls that banks look at and the ways that
2 banks deal with these kind of issues.

3 That cooperation, it's not just the information that
4 he had, it's the way he handled himself. He has always
5 been -- in every experience that I've seen and in reviewing
6 the transcripts from both trials, he has been patient,
7 dedicated, careful, respectful, clear about what he knows and
8 what he doesn't know, and I think as the jury found in Chang
9 and as I suspect the jury ultimately found in Boustani totally
10 credible.

11 I don't think -- I don't see how these trials could
12 have gone forward without Mr. Pearse.

13 Mr. Bini is here, who originally indicted the case
14 and who handled Mr. Pearse's testimony at the first trial.
15 He's come to show his support.

16 THE COURT: Where is he?

17 MR. BINI: Here, your Honor.

18 THE COURT: Welcome.

19 MR. BINI: Thank you, your Honor.

20 THE COURT: Why did you leave?

21 MR. BINI: Well, I do have two daughters --

22 THE COURT: Okay, enough. Now I understand.

23 MR. SIEGEL: A credit to Mr. Bini for indicting this
24 case without a cooperator. But had it gone forward as the
25 evidence stood, having seen the way the trial went, I don't

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1 know what would have happened at that trial without the
2 witnesses and without the information Mr. Pearse provided. He
3 was absolutely critical to the conviction of Manuel Chang and
4 for Boustani, who was not acquitted for, as it seems,
5 technical venue reasons; even for that, to really let the
6 world know what Mr. Boustani, what Privinvest, what all the
7 co-conspirators did, Mr. Pearse was absolutely essential for
8 that.

9 I also think in evaluating the 5K, this is a key
10 case to think about the need to incentivize cooperation.
11 Mr. Pearse could have fought extradition. He could have
12 fought it like Manual Chang did. But as your Honor knows from
13 other cases, in the UK it is possible to fight and win and
14 never come.

15 Who knows what would have happened had Mr. Pearse
16 decided to stay and fight that?

17 THE COURT: Well, one example is in the Johnson
18 case.

19 MR. SIEGEL: That's exactly right.

20 THE COURT: Where one of the Defendants fought and
21 avoided extradition.

22 MR. SIEGEL: That's right.

23 That is not what Mr. Pearse did. Within just a few
24 months of his arrest, he made the choice to start meeting with
25 the Government and proffering with the Government and

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1 ultimately chose to voluntarily come here and plead guilty.

2 That is a truly laudable choice.

3 So many defendants choose to not come to the United
4 States, not face the charges, whether it's in the UK, whether
5 it's Allam, who is still in Lebanon. He made that choice and
6 that choice should be rewarded and recognized and there should
7 be incentive to other people to make that choice.

8 Even when he came here to face the charges, he could
9 have just pleaded guilty. I don't think I'm saying anything
10 that isn't well known: Defendants who just come and accept
11 responsibility and plead guilty in white collar cases, the
12 sentences tend to not be extraordinary.

13 He could have just made the choice, plead guilty,
14 throw himself on the mercy of the Court, and taken what came.
15 That would have spared him what is for everyone a difficult
16 course of cooperation. It also would have spared him some of
17 the personal humiliation that came out of this case. Had he
18 just pleaded guilty, had he not testified, I don't see how any
19 of that would have come out and a lot of consequences that he
20 suffered wouldn't have come out.

21 But he made the choice to cooperate, to go all in on
22 trying to make what he did right, and committing himself to
23 truthfulness. That's a difficult choice for any person who is
24 facing what Mr. Pearse or another defendant is facing. It's a
25 difficult choice for a lawyer to counsel somebody on.

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1 And I think it's important that the sentence that
2 your Honor gives makes it so that people want to make the
3 choice that Mr. Pearse has made even with all the difficulties
4 he's faced, that future lawyers counseling future clients can
5 really lay out and point to examples and say: This is the
6 right thing to do. And it's not just the right thing to do,
7 but it is worth it to do.

8 I think that's particularly critical here in light
9 of the acquittal of Mr. Boustani. Every defendant is an
10 individual and every sentencing is individual. And the fact
11 that Mr. Boustani perhaps escaped justice, in some ways it
12 doesn't really apply to the 3553(a) factors for Mr. Pearse.
13 But in terms of thinking about incentives and thinking about
14 why people should cooperate, what Mr. Boustani very clearly
15 shows is that you can go to trial -- putting aside you can
16 fight extradition, putting aside you can just plead guilty,
17 you can go to trial and maybe you will get lucky and you will
18 win. And anyone who is assessing what to do when faced with
19 charges like this is weighing all of those options.

20 And I think this case makes it very clear that maybe
21 if Mr. Pearse would have just gone to trial with Mr. Boustani
22 that he would have been acquitted too. Had the same jury. I
23 don't know what evidence there would have been without
24 Mr. Pearse, but he could have just gone to trial. And I think
25 the sentence needs to make it clear even with that possibility

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1 it's important for people to choose to cooperate, for them to
2 feel that's the right choice and a worthwhile choice.

3 And then the final thing, your Honor, I don't want
4 to spend too much time on it because I think it's very clear
5 from Mr. Pearse's submissions, Mr. Pearse has been -- there
6 has been in some ways infinite punishment for Mr. Pearse.

7 What he has lost from his cooperation is profound.

8 I can speak for myself from the times that I've met
9 Mr. Pearse and spoke to him, things that are talked about in
10 his letter are genuine. And it has been impactful to me every
11 time I have spoken to him or heard him speak about it. It was
12 impactful to me to read his letter and his submission.

13 Obviously, prison, incarceration, is very difficult.
14 I think most people given the option would gladly choose years
15 in jail to come home to their wife and children. I don't
16 think anyone can look at Mr. Pearse and look at the facts of
17 this case and think: I want to engage in a scheme like
18 Mr. Pearse because I think it was worth it.

19 For all the money he took -- and I don't think
20 there's any dancing around that this was a crime motivated by
21 greed and motivated by money -- he has not profited. Far from
22 it.

23 This case is a warning to everyone about the cost of
24 dishonesty and the cost of greed and I don't think there is
25 any sentence that the Court could give that someone would look

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1 at and say: Well, in that case, it's worth it to me and I
2 want to risk it.

3 And I think in light of that, which is -- in some
4 ways, those consequences are here no matter what sentence the
5 Court gives. But those consequences are very real for
6 Mr. Pearse and in some ways I think those consequences are
7 more there for cooperators because they have to admit
8 everything, they have to put everything in full light. And I
9 just think that's just one additional reason why it's
10 important to weigh all that and think about what are the
11 incentives for cooperators, what is necessary to ensure that
12 cases like this can be brought with cooperators and that
13 people will make the choice to try to make what they did right
14 and try to come forward and tell the truth and advance justice
15 has opposed to just fighting.

16 THE COURT: Can I just ask a question about
17 restitution in this case?

18 MR. SIEGEL: Yes, your Honor.

19 THE COURT: The sum of restitution that I understand
20 should be imposed is \$641,202,613.

21 Is that what the Government believes should be the
22 amount of restitution?

23 And that would be severally liable; Mr. Chang and
24 the Defendant and also the other Defendant who pleaded guilty.

25 MR. SIEGEL: Your Honor, just in terms of the number

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1 that you read, I'm not sure if that's from the PSR or from our
2 recent restitution --

3 THE COURT: That's in connection with the PSR from
4 the probation department.

5 MR. SIEGEL: In the submission that we made as to
6 Mr. Chang, some of that we don't think is appropriate
7 restitution, so there's a lower total amount.

8 THE COURT: I was looking -- I read it, but where is
9 it in your submission?

10 It says that the total gain -- is it regarding the
11 guidelines calculation, the total gain reasonably foreseeable
12 by Mr. Pearse is \$63,700,000?

13 MR. SIEGEL: No, your Honor.

14 So, what the Government's proposing is, since we're
15 currently still litigating the amount of restitution as to
16 Mr. Chang, and there's already a brief before your Honor with
17 that, it's that what we are proposing is that the Court should
18 defer the calculation of restitution so that whatever legal
19 objections or factual objections there are as to Mr. Chang, we
20 can get that resolved. Once that's resolved, I expect that it
21 will be fairly easy as to Mr. Pearse.

22 The first level question is calculating the total
23 amount of restitution owed by everybody.

24 THE COURT: Right.

25 MR. SIEGEL: Once that's done as to Mr. Chang, and

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1 then I expect it will be fairly easy as to Mr. Pearse, there's
2 a question as to how you allocate that.

3 THE COURT: Right.

4 MR. SIEGEL: And the Court has wide discretion among
5 defendants to say to what extent Mr. Pearse has to be jointly
6 and severally liable as to that whole amount, some percentage
7 of that amount, based on his culpability and his economic
8 circumstances.

9 THE COURT: So, that can continue to be litigated
10 after the sentencing is what you're saying.

11 MR. SIEGEL: That's right, your Honor.

12 What we would propose is that your Honor proceed
13 with sentencing today and then set some control date for
14 within 90 days but after you expect to have a resolution as to
15 Chang. At that point, to the extent there are any legal or
16 factual issues that Mr. Pearse wants to raise, he would have
17 the opportunity to do that.

18 But then more importantly, Mr. Pearse and his
19 counsel can make whatever arguments they have about how that
20 total number should be allocated.

21 MS. CAHILL: We have no objection to that, your
22 Honor.

23 THE COURT: Thank you.

24 Ms. Cahill?

25 MS. CAHILL: Thank you, your Honor.

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1 I am not going to spend a lot of time this morning
2 talking about the rough road Andrew Pearse has been on these
3 last several years since the indictment. Everything bad that
4 has happened to him since 2019 is what he deserves for his
5 criminality. He knows this.

6 But what I do want to talk to your Honor about this
7 morning is something that's not in our sentencing memo, it's
8 not in the 5K, it's not in the presentence report. And that
9 is my personal reflections about Andrew Pearse.

10 Andrew and I first met in July 2019. If I'm being
11 honest, that Andrew Pearse was a little smug, a lot entitled,
12 quick to blame other people, and quick to make excuses for his
13 criminal conduct.

14 That is not this Andrew Pearse. This Andrew Pearse
15 is different. He has changed. He is a better man.

16 And how do I state that with such confidence?

17 Because, your Honor, Andrew Pearse and I have been
18 to Hell and back these last five and a half years. I have
19 seen him at his worst. I have seen him at his best also. But
20 I have seen him at his most vulnerable, his most scared, his
21 most depressed.

22 He and I have had fights that would make a married
23 couple blush. We have both been through personal trials since
24 2019. I lost both my parents. Andrew figuratively has lost
25 one of his sons, who has not spoken to him in years. He saw a

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1 beautiful relationship crumble over the stress of this case.

2 In those difficult times, though, I saw his
3 compassion firsthand. I saw his thoughtfulness. I saw how
4 much he cares for the people in his life.

5 What I'm trying to say to your Honor is that you
6 cannot have gone down the very lengthy road and at times very
7 dark road that I have been down with Andrew and not come to
8 know him profoundly. So, let me cut to it and tell you why I
9 think he is a different person today.

10 I think the first reason is the cooperation journey.
11 They say that the first step for addicts in recovery is
12 admitting that they are addicts. I think for Andrew, it was
13 admitting to himself that he was a criminal. Stop with the
14 excuses. I think it was like walking into a figurative
15 confession booth for him. He let it all out and he walked out
16 of that booth a cleaner man. The excuses stopped. The
17 blaming of others stopped.

18 Secondly, your Honor, Andrew Pearse has lost all his
19 wealth. The only commodities he has to trade on now are his
20 goodness, his wit, his intelligence, and his general *joie de*
21 *vivre*. He's a lovely person to spend time with sometimes. I
22 think that the people that gravitate to Andrew now do so
23 because they like him, plain and simple, not because of what
24 he has. And if I may, your Honor, in all our submissions,
25 there is one that really leaped off the page at me and I'd

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1 like to pass it up to your Honor, if I may.

2 This is a photo of Andrew and his fellow volunteers
3 at the soup kitchen that he works at every Friday. And I
4 don't mean to disparage the other volunteers here, but they
5 don't strike me as especially glamorous, especially famous,
6 powerful, or wealthy. But to me, Andrew looks like there's no
7 company he'd sooner be with than these people.

8 Another new relationship in his life is Reverend Ann
9 Kansfield, who is here today from Greenpoint to support
10 Andrew.

11 THE COURT: Yes, and thank you for your submission.
12 I appreciated and enjoyed reading it.

13 Go ahead.

14 MS. CAHILL: I also think, your Honor, that there's
15 a blessing in disguise to Mr. Pearse's loss of wealth, which
16 is that the supposed friends who were only with him because of
17 his wealth have fallen by the wayside. The old friends are
18 the ones --

19 THE COURT: I never had that problem.

20 MS. CAHILL: Nor me.

21 The old friends who were always there with Andrew
22 because they liked Andrew are still there.

23 Thirdly, your Honor, I believe what Andrew said in
24 his letter to the Court about burning down the house and just
25 starting fresh. I think he looked hard at himself in the

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1 mirror, despised what he saw, and resolved not to give up but
2 to just start anew. And I've watched him brick by brick
3 rebuild himself and rebuild his relationships. We have
4 written at length about his community service and the Waste
5 Not business that he started. I'm not going to belabor that,
6 but I simply want to say that I marvel at how far he has come.

7 The greatest days in Andrew's life now are ones that
8 I think most people would consider the most modest of
9 successes. But to Andrew, they mean the world. I'm talking
10 about a pleasant hour with one of his two children who are
11 still speaking to him. Gaining the respect of a fellow
12 volunteer. Working a hard honest day. And I like this one
13 most of all: Andrew recounted, told me, that when he brought
14 out his Christmas yuletide logs at the soup kitchen -- he is
15 their lead baker -- everyone that was there gave him a
16 standing ovation because they know the love that he pours into
17 what he's bringing to them.

18 Rupert Butler, who was Andrew's UK lawyer, I guess
19 still is, said in his letter to your Honor that he likes this
20 Andrew.

21 So do I. He is humbled. He's got his head screwed
22 on straight. He's adjusted his values and his priorities. I
23 think he's found purpose. I think he has true friends. All
24 he wants today, all he covets, is to lead a decent life and to
25 have an honest day's living.

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1 There's something else that I want to say to your
2 Honor. This may or may not resonate with you, but I'm going
3 to try. You and I were at the same city bar function a few
4 weeks ago. It was Judge Sullivan talking about the vanishing
5 trial. And there was something that Judge Sullivan said that
6 night that really stuck with me in terms of this case.

7 Judge Sullivan was giving reasons why he thought
8 there were fewer trials today than in the past. And one
9 reason he proffered was that defense lawyers and their clients
10 look at each other and say to themselves: All right, well, if
11 we go to trial, the judge is going to see and hear all this
12 terrible evidence. Suppose we get convicted. It is going to
13 be very difficult for the judge to unsee or unhear all that
14 evidence. Maybe we shouldn't run the risk.

15 And it got me thinking about the leap of faith that
16 we, as defense lawyers, ask our clients to make. We tell them
17 all the time: Do not worry about this. You're going to spill
18 your guts to the Government about the crime. You're then
19 going to tell the Government about every lousy personal and
20 professional thing you've ever done and you're probably going
21 to have to say the same things to a judge and jury at trial.
22 And you're definitely not going to be able to tell the judge
23 about good things you've done in your life. But do not worry,
24 it will all be fine.

25 And I thought to myself, my God, for a foreigner,

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1 who is not familiar with the American justice system, that's
2 asking a lot for them to accept that. And I think five years,
3 five and a half years ago, it was a huge leap of faith for
4 Andrew.

5 But your Honor, no longer. And the reason is Andrew
6 Pearse has seen the American judicial system up close and
7 personal for five and a half years. He has seen the solemnity
8 of this courtroom. He has seen the respect and dignity that
9 your Honor shows everyone who walks in here and how you treat
10 your staff. He has been treated with kindness by all the
11 professionals he has encountered; the FBI officers -- some of
12 whom are here today -- his pretrial service officers, the
13 prosecutors. And they have treated him like a human being,
14 not a criminal. He has seen how dutiful these public servants
15 are.

16 So, it is with real faith, not blind faith, that
17 Andrew Pearse is here today. He and I both know that your
18 Honor in arriving at a fair and just sentence will consider
19 the good as well as the bad and the ugly.

20 Thank you, your Honor.

21 THE COURT: Thank you. Before I turn to the
22 Defendant for any statement he wishes to make, could we talk
23 about the --

24 MS. CAHILL: Exhibit K?

25 THE COURT: -- that was provided to me by Hafsa

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1 Masood, a barrister in London --

2 MS. CAHILL: Certainly, your Honor.

3 THE COURT: -- regarding the rules for individuals
4 who are not UK citizens and who have been found guilty of a
5 crime outside of the UK with regard to the length of custodial
6 sentences?

7 I understand the new rule that he discussed and
8 analyzed whereby a custodial sentence of twelve plus months is
9 likely to have the serious consequence of being barred from
10 reentering the UK. That would be forever.

11 MS. CAHILL: That's correct, your Honor.

12 THE COURT: But I also wonder, and I was looking for
13 it, about other components of a possible sentence, like
14 supervised release, probation, and whether those would be
15 covered by this regulation as well.

16 MS. CAHILL: Your Honor, I want to respond frankly
17 to what you just said.

18 We had initially thought of proposing an alternative
19 of a sentence of under twelve months or probation. And I had
20 lunch with the pastor two years ago or so and we had seriously
21 thought about suggesting that Andrew stay in Brooklyn on
22 probation. But the reality is he simply can't afford to do
23 that. So, but for his financial circumstances, frankly, we
24 would have proposed that.

25 But my understanding of Ms. Masood's opinion is that

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1 a supervisory release term or probationary term would not
2 trigger a bar to his reentry.

3 THE COURT: I see. Okay. Thank you.

4 Anything from the Government on that, having read
5 the exhibit?

6 MR. SIEGEL: No, your Honor.

7 THE COURT: Thank you. All right.

8 Well, Mr. Pearse, we spent some time together last
9 year.

10 Is there anything you would like to say to the Court
11 before I sentence you?

12 THE DEFENDANT: If I may, your Honor.

13 THE COURT: Of course. And just speak into the
14 microphone so everybody can hear you. Just pull it over.
15 Thank you.

16 THE DEFENDANT: Is that okay, your Honor?

17 THE COURT: It's fine.

18 THE DEFENDANT: First of all, thank you, Lisa.

19 And good morning, your Honor. Thank you for hearing
20 me. I was trying to commit this to memory but, unfortunately,
21 I didn't do a good enough job. So, if you'll forgive me for
22 reading parts of it --

23 THE COURT: That's fine.

24 Have you shared what you're planning to say with
25 your attorney?

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1 MS. CAHILL: Yes, he has.

2 THE COURT: It's always a good idea. I always ask a
3 defendant if a written statement has been discussed with the
4 attorney. Almost always.

5 THE DEFENDANT: In this case, definitely, your
6 Honor.

7 Your Honor, I'm grateful to have this opportunity to
8 address you and to address the Court and to convey my sincere
9 regret for my actions but I think most importantly to
10 apologize to all of those that I have harmed. And I wanted to
11 speak today because although I've written you a letter in the
12 past, I think it's important to say these things publicly as
13 well.

14 Twelve years ago, I made a decision to accept a
15 kickback from Mr. Boustani and Mr. Safa. That was the start
16 of my journey into criminality.

17 Looking back, I cannot convey how disappointed I am
18 in myself. I had the opportunity to say no. At every turn.
19 But instead I said yes. I should have protected my employer.
20 I should have protected the people of Mozambique, frankly.
21 But instead, I gave two men I barely knew the keys to the
22 castle.

23 Those are my decisions, your Honor. I knew they
24 were wrong. And in doing so, I let down everyone that I know
25 and love. I let down my employer. I exposed investors to

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1 risks they would not have taken had they known of my crimes.
2 I helped create projects that made an economic crisis in
3 Mozambique worse than it otherwise would have been.

4 In those years, I showed the world the very worst of
5 myself, a man who could not be trusted by his family, his
6 employer, or almost anyone. I have become the poster child
7 for the worst of banker stereotypes. Thankfully, your Honor,
8 and contrary to popular belief, not all bankers are crooks.
9 But your Honor, I was.

10 I'm also relieved to be sitting before you to accept
11 the consequences of my actions. This is a scary moment for me
12 but the overwhelming emotion is one of relief to finally come
13 to the conclusion of what has been a very long journey. I've
14 been saying sorry to my family for the last six years, but now
15 I am grateful to have the opportunity to publicly apologize to
16 everyone else that my actions have harmed.

17 Your Honor, I am truly sorry.

18 To the investors I harmed, I am sorry.

19 To the people of Mozambique, I am so sorry.

20 I will never get over the guilt and shame that I
21 feel. The actions that I took at that time haunt me.

22 While my decision to get involved with Mr. Boustani
23 and Mr. Safa was the worst of my life, my decision to
24 cooperate was one of my best. Cooperating has given me the
25 opportunity to tell the truth and to accept responsibility for

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1 my actions. And I hope that by shining a light on the events
2 surrounding my crimes and those of my co-conspirators I have
3 demonstrated my remorse and, more importantly, helped my
4 victims achieve justice and, therefore, closure; not just
5 here, but also in the UK, where my trial testimony was used as
6 a backbone for Mozambique's case against Mr. Safa and
7 Privinvest. Successful case.

8 Cooperating is a long and perilous road to navigate,
9 but the end is worth every anxious, difficult, and at times
10 terrifying moment. It forced me to reveal the worst of myself
11 in public; not once, but multiple times. But by doing so,
12 I've been able to restore my values and take pride in doing
13 the right thing. Once I look back with shame and guilt at the
14 man I was, I take some pride in my achievements since then.

15 In large part, this is because I had the benefit of
16 two very good pieces of advice. I did share these with you in
17 my letter, your Honor, but one of those people is here so I
18 would like her to hear it.

19 First, from an officer in this building, pretrial
20 services, incredibly he has been an inspiration to me in so
21 many ways. I only say "incredibly" because it was from a
22 source from which I never expected to find inspiration. One
23 thing will always stay with me. He said in order to rebuild
24 my life, I will need to tear it down. I will need to tear
25 down the whole house and start again.

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1 That is not easy because it requires taking a long,
2 hard, honest look at yourself and to wholeheartedly accept
3 responsibility for all the bad things, without mitigation,
4 without blaming others. This was my fault, these were my
5 decisions, and I shall live with the consequences.

6 That journey was aided by the second piece of advice
7 from another Brooklyn resident. She is here, your Honor.
8 Pastor Ann, who wrote the most fabulous letter. I'm grateful
9 for her for that.

10 She told me a story about one of New York's finest
11 fire department chiefs, who when asked how he kept going
12 further and further into a burning building said simply: I
13 count to ten and take another step.

14 Your Honor, over the last five years, I've counted
15 to ten on more occasions than I would care to remember. But I
16 have kept going. I've tried to do the right thing.

17 I'm proud of the work that I've done within the
18 community over the last six years. Becoming a founding
19 volunteer and project leader at the Walden Soup Kitchen is
20 something I hold most dear. It gave me back my purpose.

21 Who would have thought that baking cakes would be so
22 beneficial?

23 I now know I can contribute to society. And by
24 doing so, I gain so much more than I give. I am grateful for
25 the support and kindness I have gotten from so many people,

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1 many of whom, if not the majority, were strangers to me five
2 years ago.

3 To my fellow volunteers and those in need, it's been
4 my privilege to be able to help and who have given me so much
5 more than I could ever possibly give back.

6 To the good people at Greenpoint -- I never heard of
7 Greenpoint until 2019, but what an amazing place. They took
8 me in and supported me at my lowest.

9 I'm grateful for the humanity shown to me by the
10 various AUSAs and FBI officers I have encountered over my
11 journey, many of whom are here. As Ms. Cahill told you, I've
12 been treated with nothing but the greatest of humanity. I am
13 super grateful for that. Thank you.

14 To a few, I owe a debt that I can never repay and
15 without whose empathy, wisdom, and guidance I doubt I would be
16 here today.

17 But your Honor, I now happily live and work amongst
18 the working class people of the United Kingdom where honesty,
19 loyalty, and family are valued more highly than money, where
20 hard work is rewarded with respect. I am committed to living
21 my life in this vein; to play an active part in society, to
22 work hard, and earn an honest living; and to work even harder
23 at regaining the trust of those I let down most.

24 In doing so, your Honor, I hope that one day I'll be
25 remembered not as the poster child for greedy immoral bankers

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1 but as an example of what can be achieved by accepting
2 responsibility, telling the truth, and accepting the
3 consequences with dignity; and that by setting a good example
4 to my children, hopefully one day I'll make them proud again.

5 Thank you, your Honor.

6 THE COURT: Thank you.

7 Is there anything else from the Government before I
8 sentence the Defendant?

9 MR. SIEGEL: No. Thank you, your Honor.

10 THE COURT: Thank you.

11 Anything else from defense?

12 MS. CAHILL: No, your Honor.

13 THE COURT: Yesterday, I participated in a program
14 at Fordham University School of Law with 20 other federal
15 judges from this district. And we attended classes, we spoke
16 at a community gathering where we were asked questions about
17 being judges.

18 And one of the subjects that we discussed was
19 sentencing. And I mentioned in my response to the question
20 from one of the students that it's important to get different
21 perspectives on a difficult sentencing from people. Judges
22 sometimes consult other judges and we sometimes ask our law
23 clerks, who are beginning their legal careers, unencumbered by
24 years and years of sentencing, their views.

25 And my law clerk here, Aio, a recent graduate of

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1 Harvard Law School, is my law clerk on this case, and I asked
2 him to look at the sentencing materials so that we might have
3 a conversation about how to deal with this, a difficult
4 sentencing. It involves someone who committed a very serious
5 white collar crime which had, as Mr. Pearse said, great
6 consequences for various individuals and communities, and to
7 look at the whole picture.

8 And, so, I thank him for his thoughts on this.

9 And I say this because my view is that it's easy to
10 follow the rules and get the numbers right and understand the
11 law and get that right so you can do justice. But it's more
12 important to do what's right, to do what's right under the
13 circumstances. Sometimes by doing what's right the
14 Defendant's not happy. Sometimes doing what's right makes the
15 Government unhappy.

16 I'd like to think that whatever is done here is for
17 that; within the law, the purpose of doing what's right, and
18 what will have the most positive and fewest negative
19 consequences as a result of the sentence.

20 That's where I am. And I've done sentences more
21 than a thousand times in this courtroom in 25 years. And
22 every sentence, every sentence, is a great personal challenge
23 for me. And this is no different.

24 I've reviewed the parties' sentencing submissions,
25 including the submission by the Defendant, and I've heard from

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1 both sides today in open court.

2 I've reviewed the numerous letters submitted by
3 Mr. Pearse's family, friends, and colleagues. And for that, I
4 am very thankful of all of their submissions.

5 I've also listened carefully to Mr. Pearse's
6 statement during today's proceeding.

7 The Court is required to impose a sentence that is
8 sufficient but not greater than that necessary to fulfill the
9 purposes of sentencing pursuant to Title 18, United States
10 Code, Section 3553(a).

11 I'm going to grant the Government's motion under 18
12 United States Code, Section 3553(e) and 5K1.1 of the United
13 States Sentencing Guidelines.

14 I will now describe the 3553(a) factors that I've
15 considered in determining the appropriate sentence for
16 Mr. Pearse's offenses.

17 Sentencing is an individualized inquiry requiring a
18 close and nuanced look at the nature and characteristics of
19 the offense as well as the Defendant.

20 The nature and circumstances of this offense are
21 very serious. Mr. Pearse was a well-paid banker at one of the
22 world's largest international investment banks who used his
23 advanced skill to not only facilitate a brazen international
24 fraud scheme that caused one of the biggest debt and
25 corruption scandals in Africa --

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1 And I believe he was an attorney as well.

2 MS. CAHILL: Yes, that's right.

3 THE COURT: While Mr. Pearse and his co-conspirators
4 secured billions of dollars in loans from foreign investors
5 with the goal of developing Mozambique's infrastructure, they
6 simultaneously diverted hundreds of millions of dollars from
7 those loans' proceeds to their own private gain. Mr. Pearse's
8 relationship to the development project was strictly
9 professional at the start and later devolved into criminality
10 after he accepted a kickback payment in exchange for reducing
11 the fees that should have been paid to his employer, Credit
12 Suisse, in connection with the loan transactions.

13 But Mr. Pearse did not walk away after accepting
14 that kickback payment. He used his advanced finance knowledge
15 and skill and other skills, professional skills, to further
16 advise Mozambican government on how to raise debt from
17 financial markets, including advising two additional loans
18 that were at the center of the criminal wire fraud and money
19 laundering scheme.

20 On July 22, 2019, Mr. Pearse pleaded guilty to
21 conspiracy to commit wire fraud, in violation of Title 18,
22 United States Code, Section 1343. Mr. Pearse later testified
23 that he received \$45 million in kickback payments. After
24 receiving these illicit payments, he then doled out millions to
25 two other co-conspirators who assisted him in his efforts,

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1 both of whom reported to him at Credit Suisse.

2 Mr. Pearse was born in Christ Church, New Zealand,
3 and grew up in a middle class household. When Mr. Pearse was
4 ten years old, his father got a job in the United Kingdom that
5 led his family there. Through his parents, Mr. Pearse
6 obtained permanent resident status in the United Kingdom and
7 never applied to become a citizen despite his residency there
8 for over 45 years.

9 After high school, Mr. Pearse went on to university
10 and law school and shuttled between prestigious law firms in
11 London and Milan before pivoting to investment banking at
12 Credit Suisse around August 2000. Mr. Pearse worked for
13 Credit Suisse in London until 2013, working his way up to
14 managing director of emerging markets group, where he managed
15 the bank's investments in Central Eastern Europe, the Middle
16 East, and Africa.

17 After leaving Credit Suisse, Mr. Pearse and two
18 co-conspirators formed Palomar Capital Advisors to advise
19 clients, including governments, on how to raise debt from
20 financial markets for development-related project. Mr. Pearse
21 was involved with the company up until he forfeited his
22 one-third interest as part of his plea agreement in this case.

23 Mr. Pearse married his former wife in 1996 and they
24 had three children, all of whom are now adults residing in the
25 United Kingdom.

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1 In determining an appropriate sentence for
2 Mr. Pearse, the Court considers the seriousness of
3 Mr. Pearse's offenses and his breach of respect for the laws
4 against this sort of corrupt conduct. The Court also
5 considered Mr. Pearse's substantial cooperation, invaluable
6 cooperation, and his notable efforts to reintegrate himself
7 into society and rebuild his relationships with his family and
8 community.

9 The Government's submission notes that immediately
10 after he pleaded guilty, Mr. Pearse began providing
11 substantial and exemplary assistance in the investigation and
12 prosecution of many of his co-conspirators over the following
13 six years. Mr. Pearse participated in hours of interviews and
14 testified at two trials in this courthouse, providing credible
15 information that significantly aided the Government's
16 prosecutions. The Government notes that, quote, "Mr. Pearse
17 provided unmatched insight into the inner workings of the
18 charged fraud, including details of conversations and conduct
19 for which he was a critical witness," end quote.

20 Mr. Pearse played a key role in securing the
21 convictions of his former employer Credit Suisse and the
22 former Minister of Finance of Mozambique, Mr. Manuel Chang.
23 He also helped the Government secure the guilty plea of his
24 former Credit Suisse colleague Mr. Surjan Singh.

25 Since Mr. Pearse pleaded guilty in 2019, he's

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1 expressed sincere remorse for his actions, has done
2 considerable charitable work, and has had no further issues
3 with the law. In Mr. Pearse's letter to the Court filed in
4 anticipation of today's sentencing, Mr. Pearse acknowledged
5 that he had quote, "become the poster child for greedy immoral
6 bankers," end quote.

7 The testimony that Mr. Pearse provided at trial not
8 only revealed the extent of his criminal conduct but also led
9 to the breakdown of his marriage and severely damaged his
10 relationship with his children. However, Mr. Pearse does not
11 regret coming forward. He instead used this as an opportunity
12 to turn his life around.

13 Mr. Pearse is now an avid volunteer at community
14 organizations. This started with the food pantry in a church
15 here in Greenpoint, Brooklyn. The defendant's pastor notes
16 that Mr. Pearse helped make meals and distribute groceries for
17 months, usually signing up for the dirty jobs that no one else
18 wanted. Mr. Pearse continued this volunteer work at food
19 kitchens when he returned to the United Kingdom.

20 Mr. Pearse's former wife's letter illustrates the
21 devastating effect that Mr. Pearse's actions have had on his
22 family and particularly on the three children they have
23 together. She notes that throughout this entire saga, even
24 while their children were navigating their own transition to
25 adulthood, they have shown remarkable determination and

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1 resilience.

2 In summary, Mr. Pearse's conduct and attitude since
3 he pleaded guilty make a conclusive showing that Mr. Pearse
4 has been substantially rehabilitated.

5 Sentencing is not a perfect science. No set of
6 circumstances or defendants are the same and there are
7 competing considerations this Court must consider in
8 determining Mr. Pearse's sentence.

9 The Court believes that a carceral sentence may be
10 necessary to hold Mr. Pearse accountable for the very serious
11 crimes that caused harm to the United States and other
12 international investors. But the Court also recognizes that
13 Mr. Pearse's clear desire to turn a new leaf and continue
14 rebuilding his relationship with his family in the United
15 Kingdom is very important as well.

16 The Court takes note of Mr. Pearse's otherwise clean
17 criminal record and acknowledges the potential impact that
18 Mr. Pearse's sentence may have on his immigration status in
19 the United Kingdom. The sentence I impose will reflect, I
20 believe, and take into account Mr. Pearse's conduct but credit
21 his substantial cooperation with the Government in this case.

22 I would want to say something else about the
23 consequences of Mr. Pearse's cooperation in terms of his family.

24 I would hope that his second son, his younger son...

25 THE DEFENDANT: Yes, your Honor.

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1 THE COURT: -- who has cut off his relationship with
2 his father would take a look at what his father has done over
3 the last six years to rehabilitate himself and to make himself
4 a stronger, better person, and try very hard to reestablish
5 his relationship with his father.

6 We make mistakes. Some mistakes are bigger than
7 others. Families are complicated devices. And we all look at
8 our families as parents, our children, and we see mistakes we
9 have made. We have seen mistakes the children have made. And
10 there are disagreements and there are times when we walk away.
11 But there should be a time when we come back and embrace.

12 And for Mr. Pearse and his family, this is that
13 time. And the sentence that I am going to impose upon him is
14 going to provide him with the opportunity to do so.

15 Are you ready to be sentenced?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Please stand.

18 On Count One of 18-CR-681, conspiracy to defraud, I
19 sentence you to a sentence of time served without any
20 supervised release.

21 Is there anything else?

22 There are three open counts.

23 Oh, there's no fine, by the way, because restitution
24 is a priority. And I'll hear from the Government on
25 restitution.

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1 I need a date, Joe.

2 Within 90 days, you say, Mr. Siegel?

3 MR. SIEGEL: Your Honor, forfeiture and restitution
4 should be decided within 90 days.

5 THE COURT: I need to have a suspense date on that,
6 so just one minute.

7 Friday, June 6 -- well, make it Wednesday, June 4,
8 as the suspense date for any submissions on restitution.

9 MR. SIEGEL: Thank you, your Honor.

10 THE COURT: Forfeiture, the forfeiture order will be
11 attached to the judgment.

12 Is there a motion?

13 MR. SIEGEL: Your Honor, we move to dismiss the open
14 counts, which I believe are Two, Three, and Four.

15 THE COURT: Motion is granted.

16 Other issues for me to discuss before I tell the
17 Defendant his rights?

18 MR. SIEGEL: I don't know if you mentioned the
19 special assessment.

20 THE COURT: Oh, there's a \$100 special assessment,
21 which is mandatory, which you should pay immediately.

22 Do you understand?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: \$100.

25 Anything else?

W. Name - direct/cross - Atty

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1 MR. SIEGEL: And your Honor, you indicated the
2 forfeiture would be attached to the judgment.

3 To make sure that I'm clear, the forfeiture you're
4 imposing is the forfeiture laid out in the preliminary order
5 that you --

6 THE COURT: Have signed, yes, that's right.

7 MR. SIEGEL: Thank you. Just one moment.

8 THE COURT: Sure.

9 (Pause in proceedings.)

10 MR. SIEGEL: I think that's everything. Thank you,
11 your Honor.

12 THE COURT: Is there anything else from the defense?

13 MS. CAHILL: No, your Honor, thank you very much.

14 THE COURT: Mr. Pearse, you have the right to appeal
15 your sentence to the United States Court of Appeals for the
16 Second Circuit if you believe the Court has not properly
17 followed the law in sentencing you, but your time to appeal is
18 extremely limited. You should discuss with Ms. Cahill at once
19 whether an appeal would be worthwhile.

20 Do you understand your right to appeal?

21 THE DEFENDANT: Yes, I do, your Honor.

22 THE COURT: In that case, we're adjourned.

23 MR. SIEGEL: Thank you, your Honor.

24 MS. CAHILL: Thank you, your Honor.

25 (Matter concluded.)